

Assembly Bill No. 1757

Passed the Assembly August 24, 2012

Chief Clerk of the Assembly

Passed the Senate August 21, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 7663, 7870, 7880, 8700, 8714, 8802, 8810, and 8912 of, to add Sections 8609.5 and 8700.5 to, and to repeal Sections 7828, 7829, and 9211 of, the Family Code, to amend Section 1513 of the Probate Code, and to amend Section 329 of the Welfare and Institutions Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 1757, Fletcher. Family law: adoption.

(1) Existing law provides for the termination of parental rights in adoption proceedings. In connection with those proceedings, existing law requires a court to inquire of the mother and other specified persons and entities in an effort to identify the natural father of the child to be adopted.

This bill would permit a court to extend its inquiry as to the child's parentage, in cases involving stepparent adoptions, to the licensed clinical social worker or licensed marriage and family therapist investigating the adoption, if applicable.

(2) Existing law provides that parental rights may be terminated under certain circumstances, including where the child has been abandoned, neglected, or abused by his or her parent or parents, and if the child has been declared a dependent of the juvenile court.

This bill would eliminate superseded statutory provisions concerning the termination of the parental rights of dependent children.

(3) Under existing law, when a petition to declare a child free from parental custody and control is filed, the person having custody or control of the child must be served with a citation requiring that person and the child to appear in court, except as specified. A proceeding to declare a child free from parental custody and control is required to be set for trial within 45 days of service of the petition.

This bill would require the party or attorney responsible for serving the citation in a proceeding to declare a child free from parental custody and control to serve the citation promptly. The bill would further require the hearing on the petition be held within 45 days of the filing of the petition. Additionally, this bill would

authorize a court to issue an order in that proceeding without a trial if service has been completed and no interested person appears to contest the petition.

(4) Existing law provides that, after a consent to an adoption is signed by the birth parent or parents, the birth parent or parents signing the consent have 30 days to take one of specified actions, including signing a waiver of the right to revoke consent. Under existing law, a waiver must be signed in the presence of a representative of the department or the delegated county adoption agency, the adoption service provider who advised the birth mother and witnessed the signing of the consent to the adoption if the birth parent or parents are represented by independent legal counsel, or if the birth parent or parents are represented by independent legal counsel, the waiver can also be signed in the presence of a judicial officer of the court of record or an adoption service provider.

This bill would permit a relinquishing birth parent to sign a waiver of the right to revoke relinquishment in the presence of a representative of the department or delegated county adoption agency, a public adoption agency of another state, or, if the birth parent or parents are represented by independent legal counsel, an authorized representative of a licensed private adoption agency in or outside of California, or by a judicial officer of a court in or outside of California. The bill would also set forth the role of independent legal counsel, as specified. The bill would set forth a specified certificate for that counsel to use in those proceedings. To the extent that this bill would impose new duties on county agencies, it would impose a state-mandated local program.

(5) Under existing law, a petition for adoption may be filed in the county in which the petitioner resides, where the birth parent or parents relinquished the child, where the placing birth parent or parents resided when the adoption placement agreement was signed, where the adoption agency, department, or public adoption agency is located, or, in the case of a dependent child, in the county where the child was freed for adoption.

This bill would revise and consolidate these provisions by providing that an adoption petition of a nondependent child may be filed in any of those locations. The bill would not alter the venue provisions for the adoption of dependent children.

(6) Existing law requires prospective adoptive parents to pay a fee to the department or delegated county adoption agency for the

cost of investigating the adoption petition. Petitioners with valid preplacement evaluations are charged a lesser fee for that investigation.

Under this bill, petitioners with an agency adoption home study less than 2 years old would also be eligible for this lesser fee. In addition, this bill would provide that petitioners with a valid preplacement evaluation are eligible for the lesser fee only if that evaluation is less than one year old.

(7) Existing law permits a court investigator, probation officer, or domestic relations investigator to investigate and file a report containing recommendations concerning a proposed guardianship of a person. If the investigation reveals that any party to the proposed guardianship is alleging that the minor's parent is unfit, the court is required to refer the case to the county agency designated to investigate potential dependencies. Under existing law, the guardianship proceedings cannot be completed until the dependency investigation is completed and the probate court receives the agency's report.

This bill would give a court in a guardianship proceeding involving a minor discretion to order an investigation by Child Protective Services. Under the bill, the probate court could take any reasonable steps the court deemed necessary to protect the child's safety, including appointing a temporary guardian or issuing a temporary restraining order. The bill would also provide that the author of any guardianship investigation reports and dependency investigation reports could be examined in probate court concerning the report, and would authorize the court to make the final decision regarding guardianship. Further, this bill would make all guardianship investigation reports and dependency investigation reports confidential.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 7663 of the Family Code is amended to read:

7663. (a) In an effort to identify the natural father, the court shall cause inquiry to be made of the mother and any other appropriate person by one of the following:

- (1) The State Department of Social Services.
- (2) A licensed county adoption agency.
- (3) The licensed adoption agency to which the child is to be relinquished.

(4) In the case of a stepparent adoption, the licensed clinical social worker or licensed marriage and family therapist who is performing the investigation pursuant to Section 9001, if applicable. In the case of a stepparent adoption in which no licensed clinical social worker or licensed marriage and family therapist is performing the investigation pursuant to Section 9001, the board of supervisors may assign those inquiries to a licensed county adoption agency, the county department designated by the board of supervisors to administer the public social services program, or the county probation department.

(b) The inquiry shall include all of the following:

- (1) Whether the mother was married at the time of conception of the child or at any time thereafter.
- (2) Whether the mother was cohabiting with a man at the time of conception or birth of the child.
- (3) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.
- (4) Whether any man has formally or informally acknowledged or declared his possible paternity of the child.
- (5) The names and whereabouts, if known, of every man presumed or alleged to be the father of the child, and the efforts made to give notice of the proposed adoption to each man identified.

(c) The agency that completes the inquiry shall file a written report of the findings with the court.

SEC. 2. Section 7828 of the Family Code is repealed.

SEC. 3. Section 7829 of the Family Code is repealed.

SEC. 4. Section 7870 of the Family Code is amended to read:

7870. (a) It is the public policy of this state that judicial proceedings to declare a child free from parental custody and control shall be fully determined as expeditiously as possible.

(b) Notwithstanding any other provision of law, a proceeding to declare a child free from parental custody and control pursuant to this part shall be set for hearing not more than 45 days after the filing of the petition. If, at the time set for hearing, or at any continuance thereof, service has been completed and no interested person appears to contest, the court may issue an order based on the verified pleadings and any other evidence as may be submitted. If any interested person appears to contest the matter, the court shall set the matter for trial. The matter so set has precedence over all other civil matters on the date set for trial.

(c) The court may continue the proceeding as provided in Section 7864 or Section 7871.

SEC. 5. Section 7880 of the Family Code is amended to read:

7880. (a) Upon the filing of the petition, a citation shall issue requiring any person having the custody or control of the child, or the person with whom the child is, to appear at a time and place stated in the citation.

(b) The citation shall also require the person to appear with the child except that, if the child is under the age of 10 years, appearance with the child is required only upon order of the court after necessity has been shown.

(c) Service of the citation shall be made in the manner prescribed by law for service of civil process at least 10 days before the time stated in the citation for the appearance. The party or attorney responsible for serving the citation shall do so in a timely manner in order to maximize the response time available to the party being served.

SEC. 6. Section 8609.5 is added to the Family Code, to read:

8609.5. An adoption request for the adoption of a nondependent minor may be filed with the court in the county in which one of the following applies:

(a) The petitioner resides.

(b) The child was born or resides at the time of filing.

(c) An office of the agency that placed the child for adoption is located.

(d) An office of the department or a public adoption agency that is investigating the petition is located.

(e) The county in which a placing birth parent or parents resided when the adoptive placement agreement, consent, or relinquishment was signed.

(f) The county in which a placing birth parent or parents resided when the petition was filed.

(g) The county in which the child was freed for adoption.

SEC. 7. Section 8700 of the Family Code is amended to read:

8700. (a) Either birth parent may relinquish a child to the department, county adoption agency, or licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of the department, county adoption agency, or licensed adoption agency. The relinquishment, when reciting that the person making it is entitled to the sole custody of the child and acknowledged before the officer, is prima facie evidence of the right of the person making it to the sole custody of the child and the person's sole right to relinquish.

(b) A relinquishing parent who is a minor has the right to relinquish his or her child for adoption to the department, county adoption agency, or licensed adoption agency, and the relinquishment is not subject to revocation by reason of the minority.

(c) If a relinquishing parent resides outside this state and the child is being cared for and is or will be placed for adoption by the department, county adoption agency, or a licensed adoption agency, the relinquishing parent may relinquish the child to the department, county adoption agency, or licensed adoption agency by a written statement signed by the relinquishing parent before a notary on a form prescribed by the department, and previously signed by an authorized official of the department, county adoption agency, or licensed adoption agency that signifies the willingness of the department, county adoption agency, or licensed adoption agency to accept the relinquishment.

(d) If a relinquishing parent and child reside outside this state and the child will be cared for and will be placed for adoption by the department, county adoption agency, or licensed adoption agency, the relinquishing parent may relinquish the child to the department, county adoption agency, or licensed adoption agency by a written statement signed by the relinquishing parent, after that parent has satisfied the following requirements:

(1) Prior to signing the relinquishment, the relinquishing parent shall have received, from a representative of an agency licensed or otherwise approved to provide adoption services under the laws of the relinquishing parent's state of residence, the same counseling and advisement services as if the relinquishing parent resided in this state.

(2) The relinquishment shall be signed before a representative of an agency licensed or otherwise approved to provide adoption services under the laws of the relinquishing parent's state of residence whenever possible or before a licensed social worker on a form prescribed by the department, and previously signed by an authorized official of the department, county adoption agency, or licensed adoption agency, that signifies the willingness of the department, county adoption agency, or licensed adoption agency to accept the relinquishment.

(e) (1) The relinquishment authorized by this section has no effect until a certified copy is sent to, and filed with, the department. The county adoption agency or licensed adoption agency shall send that copy by certified mail, return receipt requested, or by overnight courier or messenger, with proof of delivery, to the department no earlier than the end of the business day following the signing thereof. The agency shall inform the birth parent that during this time period he or she may request that the relinquishment be withdrawn and that, if he or she makes the request, the relinquishment shall be withdrawn. The relinquishment shall be final 10 business days after receipt of the filing by the department, unless any of the following applies:

(A) The department sends written acknowledgment of receipt of the relinquishment prior to the expiration of that 10-day period, at which time the relinquishment shall be final.

(B) A longer period of time is necessary due to a pending court action or some other cause beyond control of the department.

(C) The birth parent signs a waiver of right to revoke relinquishment pursuant to Section 8700.5, in which case the relinquishment shall become final as provided in that section.

(2) After the relinquishment is final, it may be rescinded only by the mutual consent of the department, county adoption agency, or licensed adoption agency to which the child was relinquished and the birth parent or parents relinquishing the child.

(f) The relinquishing parent may name in the relinquishment the person or persons with whom he or she intends that placement of the child for adoption be made by the department, county adoption agency, or licensed adoption agency.

(g) Notwithstanding subdivision (e), if the relinquishment names the person or persons with whom placement by the department, county adoption agency, or licensed adoption agency is intended and the child is not placed in the home of the named person or persons or the child is removed from the home prior to the granting of the adoption, the department, county adoption agency, or licensed adoption agency shall mail a notice by certified mail, return receipt requested, to the birth parent signing the relinquishment within 72 hours of the decision not to place the child for adoption or the decision to remove the child from the home.

(h) The relinquishing parent has 30 days from the date on which the notice described in subdivision (g) was mailed to rescind the relinquishment.

(1) If the relinquishing parent requests rescission during the 30-day period, the department, county adoption agency, or licensed adoption agency shall rescind the relinquishment.

(2) If the relinquishing parent does not request rescission during the 30-day period, the department, county adoption agency, or licensed adoption agency shall select adoptive parents for the child.

(3) If the relinquishing parent and the department, county adoption agency, or licensed adoption agency wish to identify a different person or persons during the 30-day period with whom the child is intended to be placed, the initial relinquishment shall be rescinded and a new relinquishment identifying the person or persons completed.

(i) If the parent has relinquished a child, who has been found to come within Section 300 of the Welfare and Institutions Code or is the subject of a petition for jurisdiction of the juvenile court under Section 300 of the Welfare and Institutions Code, to the department, county adoption agency, or a licensed adoption agency for the purpose of adoption, the department, county adoption agency, or licensed adoption agency accepting the relinquishment shall provide written notice of the relinquishment within five court days to all of the following:

(1) The juvenile court having jurisdiction of the child.

- (2) The child's attorney, if any.
- (3) The relinquishing parent's attorney, if any.
- (j) The filing of the relinquishment with the department terminates all parental rights and responsibilities with regard to the child, except as provided in subdivisions (g) and (h).
- (k) The department shall adopt regulations to administer the provisions of this section.

SEC. 8. Section 8700.5 is added to the Family Code, to read:

8700.5. (a) A relinquishing birth parent may elect to sign a waiver of the right to revoke relinquishment in the presence of any of the following:

- (1) A representative of the department or the delegated county adoption agency, or any public adoption agency of another state.
- (2) A judicial officer of a court of record, within or outside of California, if the birth parent is represented by independent legal counsel.
- (3) An authorized representative of a licensed private adoption agency within or outside of California, including a representative of the adoption agency that witnessed or accepted the relinquishment, if the birth parent is represented by independent legal counsel.

(b) The waiver of the right to revoke relinquishment may not be signed until the department, delegated county adoption agency, or public adoption agency of another state has completed an interview, unless the waiver is signed in the presence of a judicial officer of a court of record of any state or an authorized representative of a private adoption agency licensed within or outside of California. If the waiver is signed in the presence of a judicial officer, the interview and witnessing of the signing of the waiver shall be conducted by the judicial officer. If the waiver is signed in the presence of an authorized representative of a licensed adoption agency, the interview shall be conducted by the independent legal counsel for the birth parent or parents, who shall:

- (1) Review the waiver with the birth parent or parents.
- (2) Counsel the birth parent or parents about the nature of the intended waiver.
- (3) Sign and deliver to the birth parent or parents and the licensed adoption agency a certificate in substantially the following form:

“I, (name of attorney), have counseled my client, (name of client), about the nature and legal effect of the waiver of the right to revoke the relinquishment for adoption. I am so disassociated from the interest of the prospective adoptive parent(s) and the licensed adoption agency as to be in a position to advise my client impartially and confidentially as to the consequences of the waiver. My client is aware that California law provides an indeterminate period, usually 2 to 10 business days, during which a birth parent may revoke a relinquishment for adoption. On the basis of this counsel, I conclude that it is the intent of my client to waive the right to revoke, and to make a permanent and irrevocable relinquishment for adoption. My client understands that upon signing this waiver, he or she will not be able to regain custody of the child unless the prospective adoptive parent or parents agree to withdraw the petition for adoption or the court denies the adoption petition.”

(c) If the placing birth parent signs the waiver in front of a judicial officer or the department, the relinquishment shall become final and irrevocable at the time the waiver is signed. If the waiver is signed in the presence of an authorized representative of a private licensed adoption agency, the relinquishment shall become final and irrevocable at the close of the next business day.

(d) The licensed adoption agency shall submit the waiver and certificate to the department with the relinquishment, unless the relinquishment was submitted to the department before the waiver was signed, in which case the waiver and certificate shall be submitted to the department no later than two business days after signing.

SEC. 9. Section 8714 of the Family Code is amended to read:

8714. (a) A person desiring to adopt a child may for that purpose file an adoption request in a county authorized by Section 8609.5. If a child has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and has thereafter been freed for adoption by the juvenile court, the petition may be filed either in the county where the petitioner resides or in the county where the child was freed for adoption.

(b) The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(c) If the petitioner has entered into a postadoption contact agreement with the birth parent as set forth in Section 8616.5, the agreement, signed by the participating parties, shall be attached to and filed with the petition for adoption under subdivision (a).

(d) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth. The name the child had before adoption shall appear in the joinder signed by the licensed adoption agency.

(e) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(f) The order of adoption shall contain the child's adopted name, but not the name the child had before adoption.

SEC. 10. Section 8802 of the Family Code is amended to read:

8802. (a) (1) Any of the following persons who desire to adopt a child may, for that purpose, file an adoption request in a county authorized by Section 8609.5:

(A) An adult who is related to the child or the child's half sibling by blood or affinity, including all relatives whose status is preceded by the words "step," "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution.

(B) A person named in the will of a deceased parent as an intended adoptive parent where the child has no other parent.

(C) A person with whom a child has been placed for adoption.

(D) (i) A legal guardian who has been the child's legal guardian for more than one year.

(ii) If the child is alleged to have been abandoned pursuant to Section 7822, a legal guardian who has been the child's legal guardian for more than six months. The legal guardian may file a petition pursuant to Section 7822 in the same court and concurrently with a petition under this section.

(iii) However, if the parent nominated the guardian for a purpose other than adoption for a specified time period, or if the guardianship was established pursuant to Section 360 of the Welfare and Institutions Code, the guardianship shall have been in existence for not less than three years.

(2) If the child has been placed for adoption, a copy of the adoptive placement agreement shall be attached to the petition. The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(3) If the petitioner has entered into a postadoption contact agreement with the birth parent as set forth in Section 8616.5, the agreement, signed by the participating parties, shall be attached to and filed with the petition for adoption.

(b) The petition shall contain an allegation that the petitioners will file promptly with the department or delegated county adoption agency information required by the department in the investigation of the proposed adoption. The omission of the allegation from a petition does not affect the jurisdiction of the court to proceed or the validity of an adoption order or other order based on the petition.

(c) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth and the name the child had before adoption.

(d) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding, and the consolidated case shall be heard and decided in the court in which the adoption is pending.

(e) The order of adoption shall contain the child's adopted name, but not the name the child had before adoption.

SEC. 11. Section 8810 of the Family Code is amended to read:

8810. (a) Except as otherwise provided in this section, whenever a petition is filed under this chapter for the adoption of a child, the petitioner shall pay a nonrefundable fee to the

department or to the delegated county adoption agency for the cost of investigating the adoption petition. Fifty percent of the payment shall be made to the department or delegated county adoption agency at the time the adoption petition is filed, and the remaining balance shall be paid no later than the date determined by the department or the delegated county adoption agency in an amount as follows:

(1) For petitions filed on and after October 1, 2008, four thousand five hundred dollars (\$4,500).

(2) For petitioners who have a valid preplacement evaluation less than one year old pursuant to Section 8811.5, or a valid private agency adoption home study less than two years old at the time of filing a petition, one thousand five hundred fifty dollars (\$1,550) for a postplacement evaluation pursuant to Sections 8806 and 8807.

(b) Revenues produced by fees collected by the department pursuant to subdivision (a) shall be used, when appropriated by the Legislature, to fund only the direct costs associated with the state program for independent adoptions. Revenues produced by fees collected by the delegated county adoption agency pursuant to subdivision (a) shall be used by the county to fund the county program for independent adoptions.

(c) The department or delegated county adoption agency may reduce the fee to no less than five hundred dollars (\$500) when the prospective adoptive parents are very low income, according to the income limits published by the Department of Housing and Community Development, and when making the required payment would be detrimental to the welfare of an adopted child. The department shall develop additional guidelines regarding income and assets to determine the financial criteria for reduction of the fee under this subdivision.

(d) This section shall become operative on October 1, 2008.

SEC. 12. Section 8912 of the Family Code is amended to read:

8912. (a) An international adoption or readoption request may be filed by a resident of this state in a county authorized by Section 8609.5. The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(b) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth. The name the child had before

adoption shall appear in the joinder signed by the licensed adoption agency.

(c) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(d) The order of adoption shall contain the child's adopted name, but not the name the child had before adoption.

(e) If the petitioner has entered into a postadoption contact agreement with the birth parent as set forth in Section 8616.5, the agreement, signed by the participating parties, shall be attached to and filed with the petition for adoption.

SEC. 13. Section 9211 of the Family Code is repealed.

SEC. 14. Section 1513 of the Probate Code is amended to read:

1513. (a) Unless waived by the court, a court investigator, probation officer, or domestic relations investigator shall make an investigation and file with the court a report and recommendation concerning each proposed guardianship of the person or guardianship of the estate. Investigations where the proposed guardian is a relative shall be made by a court investigator. Investigations where the proposed guardian is a nonrelative shall be made by the county agency designated to investigate potential dependency. The report for the guardianship of the person shall include, but need not be limited to, an investigation and discussion of all of the following:

(1) A social history of the guardian.

(2) A social history of the proposed ward, including, to the extent feasible, an assessment of any identified developmental, emotional, psychological, or educational needs of the proposed ward and the capability of the petitioner to meet those needs.

(3) The relationship of the proposed ward to the guardian, including the duration and character of the relationship, where applicable, the circumstances whereby physical custody of the proposed ward was acquired by the guardian, and a statement of the proposed ward's attitude concerning the proposed guardianship, unless the statement of the attitude is affected by the proposed ward's developmental, physical, or emotional condition.

(4) The anticipated duration of the guardianship and the plans of both natural parents and the proposed guardian for the stable and permanent home for the child. The court may waive this requirement for cases involving relative guardians.

(b) If the proposed ward is or may be described by Section 300 of the Welfare and Institutions Code, the court may refer the matter to the local child welfare services agency to initiate an investigation of the referral pursuant to Sections 328 and 329 of the Welfare and Institutions Code and to report the findings of that investigation to the court. Pending completion of the investigation, the court may take any reasonable steps it deems appropriate to protect the child's safety, including, but not limited to, appointment of a temporary guardian or issuance of a temporary restraining order. If dependency proceedings are initiated, the guardianship proceedings shall be stayed in accordance with Section 304 of the Welfare and Institutions Code. Nothing in this section shall affect the applicability of Section 16504 or 16506 of the Welfare and Institutions Code. If a dependency proceeding is not initiated, the probate court shall retain jurisdiction to hear the guardianship matter.

(c) Prior to ruling on the petition for guardianship, the court shall read and consider all reports submitted pursuant to this section, which shall be reflected in the minutes or stated on the record. Any person who reports to the court pursuant to this section may be called and examined by any party to the proceeding.

(d) All reports authorized by this section are confidential and shall only be made available to persons who have been served in the proceedings or their attorneys. The clerk of the court shall make provisions to limit access to the reports exclusively to persons entitled to receipt. The reports shall be made available to all parties entitled to receipt no less than three court days before the hearing on the guardianship petition.

(e) For the purpose of writing either report authorized by this section, the person making the investigation and report shall have access to the proposed ward's school records, probation records, and public and private social services records, and to an oral or written summary of the proposed ward's medical records and psychological records prepared by any physician, psychologist, or psychiatrist who made or who is maintaining those records. The physician, psychologist, or psychiatrist shall be available to clarify

information regarding these records pursuant to the investigator's responsibility to gather and provide information for the court.

(f) This section does not apply to guardianships resulting from a permanency plan for a dependent child pursuant to Section 366.26 of the Welfare and Institutions Code.

(g) For purposes of this section, a "relative" means a person who is a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons, even after the marriage has been terminated by death or dissolution.

(h) In an Indian child custody proceeding, any person making an investigation and report shall consult with the Indian child's tribe and include in the report information provided by the tribe.

SEC. 15. Section 329 of the Welfare and Institutions Code is amended to read:

329. Whenever any person applies to the social worker to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a child within the provisions of Section 300, and setting forth facts in support thereof. The social worker shall immediately investigate as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced. If the social worker does not take action under Section 301 and does not file a petition in the juvenile court within three weeks after the application, he or she shall endorse upon the affidavit of the applicant his or her decision not to proceed further, including any recommendation made to the applicant, if one is made, to consider commencing a probate guardianship for the child, and his or her reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered by him or her under this section. The social worker shall retain the affidavit and his or her endorsement thereon for a period of 30 days after notifying the applicant.

SEC. 16. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2012

Governor